Single Bench

CH 1002

IN THE HIGH COURT OF JUDICATURE, AT BILASPUR (C.G.)

Writ Petition No. 608 /2005

PETITIONER : Ramprasad Dvivedi S/o. Kanhaiyalal Dvivedi, Aged about 45 years, Present posted Aamin Mini Mata, Hasdeo Bango Nehru Sambhag –4, Dabra, Distt. Janjgir (C.G.)

VERSUS

RESPONDENTS 1] State of Chhattisgarh, Through: Secretary, Irrigation Deptt. Raipur (C.G.)

2] Engineer-in-Chief, Irrigation Department, Shihawa Bhawan, Civil Lines, Raipur (C.G.)

3] Chief Engineer, Hasdeo Bango Project, Bilaspur (C.G.)

4] Executive Engineer, Sub-Division No.4. Hasdeo Bango Dabra, Distt. Janjgir (C.G.)

P.R. No. 611/05 Presented by Shri Dixit Sahoo dated 15-02-05

14/2/05

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

XI-HC—78

(29)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No. 608/2005 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

02.03.2005

Smt. Anju Ahuja, counsel for the petitioner.

Shri Sandeep Dubey, Govt. Advocate for the State on advance copy.

Heard on admission.

The petitioner has challenged the legality, validity and propriety of show cause notice dated 4.2.2005 (Annexure-P/6) issued by Superintending Engineer, Water Resources Department, Raipur.

It is contended in the notice that the petitioner managed to obtain the experience certificate of *Amin* while working as a daily wager where as in fact he was working as *Sthal Sahayak,* and his services were regularized on the basis of said certificate. The said act has been held to be in contravention of Civil Services Conduct Rules, 1965.

Learned counsel for the petitioner submits that the petitioner has neither committed nor participated in any such act of obtaining forged documents from any authority concerned. No such documents were produced by the petitioner on the basis of which the regularization order was passed. She further submits that the petitioner has already filed reply to

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

the show cause notice vide Annexure-P/7. The petitioner has challenged the validity of notice on factual aspects.

It is well settled that while entertaining writ petitions questioning the legality of show cause notices, it is to be kept in mind that unless the Court is satisfied that the show cause notice was totally non est in the eye of law for absolute want of jurisdiction of the authority to even investigate into facts, the writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show cause notice and take all stands highlighted in the writ petition. **(Please see *2004 A.I.R. SCW pg. 416 Special Director and another* v. *Mohd. Ghulam Ghouse and another*)**

In the present case also, the jurisdiction or authority of the person issuing the notice is not under challenge. The validity of the notice has been assailed on the factual grounds by the petitioner. In the opinion of this Court, present is not a fit case in which the writ jurisdiction can be exercised.

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P.No.608/2005 सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	However, the petitioner is at liberty to file additional reply etc and raise all such grounds, which are available under the law before authority concerned who will consider and decide the same. This Court does not find any merits in the petition and accordingly, the petition stands dismissed. No orders as to the cost. Consequently, M.W.P. No. 499/2005 and I.A. No. 1275/2005 stand disposed of. Certified copy as per rules. Sd/- **Sunil Kumar Sinha** **Judge**	

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